

### **Remarks**

Reconsideration of the present application is respectfully requested. Claims 1, 3, 4, 6-9, 11, 12 and 14-16 are pending in this application.

In the Office Action mailed February 20, 2002, the Examiner rejected claim 1 under 35 U.S.C. § 102(b) as anticipated by U.S.P.N. 5,835,878 to Saito et al. ("the Saito '878 patent"). The Examiner also rejected claims 1 and 9 under 35 U.S.C. § 103(a) as unpatentable over U.S.P.N. 6,178,370 to Zierolf ("the Zierolf '370 patent"). The Examiner also objected to claims 1, 3, 4, 6-9, 11, 12 and 14-16 under the judicially created doctrine of obviousness-type double patenting in light of U.S. Patent Nos. 6,212,465 and 6,285,945.

In response, the Applicants have filed herewith Terminal Disclaimers to obviate the Examiner's obviousness-type double patenting rejections. The Applicants have also re-written claims 3, 4, 6 and 7 in independent form to include all of the limitations of independent claim 1, from which they had each depended directly, and have re-written claims 11, 12, 14 and 15 in independent form to include all of the limitations of independent claim 9, from which they had each depended directly. As a result, the Applicants believe that claims 3, 4, 6-8, 11, 12 and 14-16 are in condition for allowance, and such action by the Examiner is respectfully requested.

Finally, for the reasons set forth below, Applicants respectfully traverse the Examiner's rejections of claims 1 and 9 under 35 U.S.C. §§ 102(b) and 103(a).

#### **Rejection of Claim 1 Under 35 U.S.C. § 102(b)**

As set forth above, in the February 20, 2002 Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 102(b) as anticipated by the Saito '878 patent. The Applicants respectfully believe, however, that claim 1 is not anticipated by that reference.

More particularly, in prior art adaptive speed control systems and methods, the maximum allowed vehicle deceleration is constant. Thus, at higher vehicle speeds,

deceleration of an adaptive speed control equipped vehicle to maintain a selected following interval may be perceived as uncomfortable by the vehicle operator. Conversely, at lower vehicle speeds, deceleration of an adaptive speed control equipped vehicle to maintain a selected following interval may be perceived as insufficient by the vehicle operator. As recited in claim 1, the Applicants' invention is directed to a method for controlling vehicle deceleration in an adaptive speed control system, including determining a speed of the vehicle, and setting a maximum allowed vehicle deceleration based on the vehicle speed determined. By setting the maximum allowed vehicle deceleration based on the vehicle speed, the Applicants' claimed invention provides an adaptive speed control equipped vehicle with a more comfortable response for the vehicle operator.

In contrast, the Saito '878 patent is not directed to adaptive vehicle speed control. Instead, as noted in the its Title, the Saito '878 patent is directed to an ordinary vehicle speed control system. As stated in its Abstract, to eliminate any substantial steady-state vehicle speed deviation, the Saito '878 patent determines a target vehicle acceleration in order to bring the vehicle speed into coincidence with a target vehicle speed set by the vehicle operator. As a result, the Saito '878 patent merely discloses a prior art adaptive speed control system as described above, where the maximum allowed vehicle deceleration is constant. Contrary to the Examiner's contention, then, the Saito '878 patent does not teach determining vehicle speed, and setting a maximum allowed vehicle deceleration in an adaptive speed control system based on vehicle speed.

As a result, the Applicants believe that claim 1 is not anticipated by the Saito '878 patent. Reconsideration of the Examiner's rejection thereof under 35 U.S.C. § 102(b) is therefore respectfully requested.

**Rejection of Claims 1 and 9**  
**Under 35 U.S.C. § 103(a)**

As also set forth above, in the March 21, 2001 Office Action in the parent application, the Examiner also rejected claims 1 and 9 under 35 U.S.C. § 103(a) as

unpatentable over the Zierolf '370 patent. The Applicants respectfully believe, however, that claims 1 and 9 are not rendered obvious by that reference.

As previously noted, the Applicants' claimed invention is directed to a method and system for controlling vehicle deceleration in a adaptive speed control system. As recited in claim 1, the method includes determining a speed of the vehicle, and setting a maximum allowed vehicle deceleration based on the vehicle speed determined. As recited in claim 9, the system includes a receiver capable of receiving an input signal indicative of a speed of the vehicle, and a controller capable of setting a maximum allowed vehicle deceleration based on the vehicle speed.

In contrast, the Zierolf '370 patent is not directed to vehicle speed control, adaptive or otherwise. Instead, as noted in the its Title, the Zierolf '370 patent is directed to a deceleration based antiskid brake controller with an adaptive deceleration threshold. Contrary to the Examiner's contention, then, the Zierolf '370 patent does not teach determining vehicle speed, or setting a maximum allowed vehicle deceleration based on vehicle speed. Instead, as stated in its Abstract, the Zierolf '370 patent measures a wheel speed, differentiates that wheel speed to determine a wheel deceleration, compares that wheel deceleration to a threshold value, and controls brake pressure to adjust that wheel deceleration based on that comparison.

As a result, the Applicants believe that claims 1 and 9 are not rendered obvious by the Zierolf '370 patent. Reconsideration of the Examiner's rejection thereof under 35 U.S.C. § 103(a) is therefore respectfully requested.

### CONCLUSION

For the reasons set forth above, the Applicants believe that claims 1, 3, 4, 6-9, 11, 12 and 14-16 meet both the formal and substantive requirements for patentability, and that the application is in proper condition for allowance. Accordingly, such action by the Examiner is respectfully requested.

If a telephone conference would expedite allowance or resolve any additional questions, such a call is invited at the Examiner's convenience.

A fee in the amount of \$756.00 associated with these amendments is enclosed. Please charge any additional required fees, or credit any overpayment, to Deposit Account No. 02-3978.

Respectfully submitted,  
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